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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,094	07/29/2002	Rudiger Franke	LSP-0017	1600

7590 05/03/2007
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EXAMINER

MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
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3663

MAIL DATE	DELIVERY MODE
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05/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/048,094

Applicant(s)

FRANKE ET AL.

Examiner

Ronnie Mancho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/9/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 5-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claims 5-9, the applicant recites, "power optimization", but does not teach one skilled in the art how "Power optimization" is done. The applicant simply copies the phrase from the specification and stamps it in the claims.

Further, in claims 5&8, the phrase "a penalty term in the optimization, the use of time reserve penalized less the closer the vehicle is to the destination" is not enabled. Applicant does not provide an example of what is meant by "penalty" or "penalized less" in reference to "optimization". How does one determine "penalty", "penalized less", etc?

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim, 5-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, it is not clear what all is meant and encompassed by the term, “power optimization”. Applicant does not show how “power optimization” is done. Therefore, the limitation is indefinite. The rejection applies to the rest of the claims.

In claims 5&8, “the travel mode of the vehicle” lacks antecedent basis. It is not also understood what is meant and encompassed by “the travel mode of the vehicle”.

In claim 7, it is not clear what all is meant and encompassed by “latest time”, “earliest time”. How late is late or how early is early?

Claims 6, 7, 9 have improper dependency.

The rest of the claims are rejected for depending on a rejected base claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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6. Claims 5-9 are rejected under 35 U.S.C. 102(e) as being by Desai et al (5862509).

Regarding claim 5, Desai et al (abstract, col. 2, lines 23-41, col. 3, lines 24-65; col. 4, lines 1-67) disclose a method for power optimization in a vehicle traveling over a route between a start point and a destination, the route being subdivided into a plurality of sections (figs. 1-5), the method comprising:

allocating a time reserve for the route (col. 3, lines 24-65; col. 4, lines 1-67);

assigning a portion of the time reserve to each section col. 3, lines 24-65; col. 4, lines 1-67);

adding unused portions of the time reserve proportionally to the remaining route sections as the vehicle travels over the route (i.e. the time is recalculated en route; col. 2, lines 23-41); and

optimizing the travel mode of the vehicle wherein the time reserves granted to the individual route sections are taken into account as a penalty term (i.e. cost; see col. 3, lines 24-65; col. 4, lines 1-67; col. 7, lines 60 to col. 8, line 40) in the optimization, the use of time reserve penalized less the closer the vehicle is to the destination (i.e. in a traffic jam, a car uses more fuel as it sits in traffic hence increasing cost when car is farther away from its destination than when the car is near its destination; col. 3, lines 24-65; col. 4, lines 1-67).

Regarding claim 6, Desai et al (abstract, col. 2, lines 23-41, col. 3, lines 24-65; col. 4, lines 1-67) disclose the method of claim 5, wherein each section of the route is assigned a latest time for passage of the vehicle through the section and the latest times are included as boundary conditions in the optimization.

Regarding claim 7, Desai et al (abstract, col. 2, lines 23-41, col. 3, lines 24-65; col. 4, lines 1-67) disclose the method of claim 5, wherein each section of the route is assigned an

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earliest and a latest time for passage of the vehicle through the section and the earliest and latest times are included as boundary conditions in the optimization (col. 7&8).

Regarding claim 8, Desai et al (abstract, col. 2, lines 23-41, col. 3, lines 24-65; col. 4, lines 1-67) disclose a method for power optimization in a vehicle traveling over a route between a start point and a destination, the route being subdivided into a plurality of sections, the method comprising:

allocating a time reserve for the route; assigning a portion of the time reserve to each section; assigning a latest time for passage of the vehicle through each section (abstract, col. 2, lines 23-41, col. 3, lines 24-65; col. 4, lines 1-67);

adding unused portions of the time reserve proportionally to the remaining route sections as the vehicle travels over the route (abstract, col. 2, lines 23-41, col. 3, lines 24-65; col. 4, lines 1-67); and

optimizing the travel mode of the vehicle wherein the latest times are included as boundary conditions in the optimization (abstract, col. 2, lines 23-41, col. 3, lines 24-65; col. 4, lines 1-67).

Regarding claim 9, Desai et al (abstract, col. 2, lines 23-41, col. 3, lines 24-65; col. 4, lines 1-67) disclose the method of claim 8, further comprising assigning an earliest time for passage of the vehicle through each section and wherein the earliest times are included as boundary conditions in the optimization

Communication


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronnie Mancho
Examiner
Art Unit 3663

4/28/07


THOMAS BLACK
SUPERVISORY PATENT EXAMINER